

IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF ILLINOIS

RICHARD B. KELLY, B76238,)	
)	
Plaintiffs,)	
)	
v.)	No. 08-322-GPM-CJP
)	
J. SISK, TERRY CALIPER, MAJOR)	
BRANCH, LT. OSMAN, and UNKNOWN)	
TACT C/Os INVOLVED,)	
)	
Defendants.)	

ORDER

PROUD, Magistrate Judge:

Before the Court is the motion of the Warden of Tamms Correctional Center, seeking to quash the Court's January 9, 2009, order (**Doc. 14**) directing prison officials to permit plaintiff to use an ink pen in connection with his litigation of the above-captioned action. (**Doc. 17**). This Court will not await a response from plaintiff, as the Court's order had recognized that the use of a pen at the "super max" facility raised security concerns. Prison officials at Tamms were specifically granted latitude to impose whatever security restrictions they deem appropriate to ensure that plaintiff's use of a pen did not pose a security risk. Moreover, the use of a pen was for the Court's convenience, not a reflection of any constitutional right belonging to plaintiff.

The affidavit of Assistant Warden Lambert details how plaintiff has misused "flex pens," assaulting staff and inserting the pens in his body orifices. (**Doc. 17-2**). Plaintiff also has a history of putting paperclips and other typically innocuous objects to use as weapons. The Warden proposes that plaintiff be permitted a "flex pencil" under supervision, because the pencil does not contain certain a hollow barrel and metal tip.

IT IS THEREFORE ORDERED that the Court's Order dated January 9, 2009 (**Doc. 14**), is hereby **QUASHED**, in that prison officials do not have to permit plaintiff access to any type of ink pen for writing his pleadings in this action.

IT IS FURTHER ORDERED that plaintiff shall be permitted access to a "flex pencil" under the close supervision of prison officials.

The Clerk of Court shall send copies of this order to all parties, the intervenor, and directly to Tamms Correctional Center:

Warden
Tamms Correctional Center
8500 Supermax Road
P.O. Box 400
Tamms, IL 62988

IT IS SO ORDERED.

DATED: January 23, 2009

s/ Clifford J. Proud _____
CLIFFORD J. PROUD
U. S. MAGISTRATE JUDGE